

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF GENE T.) APPEAL NO. 07-A-2194
GUILFOY from the decision of the Board of) FINAL DECISION
Equalization of Nez Perce County for tax year 2007.) AND ORDER

VACANT LAND APPEAL

THIS MATTER came on for hearing on October 26, 2007 in Lewiston, Idaho, before Hearing Officer Steve Wallace. Appellant Gene T. Guilfoy appeared for himself. Assessor Daniel Anderson and Appraiser Jim Peters appeared for Respondent Nez Perce County (the "County"). This appeal is taken from a decision of the Nez Perce County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RPP1997001002A A. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision.

The issue on appeal is the market value of an unimproved rural residential property.

The decision of the Nez Perce County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$2,275. Appellant requests the land value be reduced to \$1,107.

The subject property is an unimproved 5,000 square foot residential parcel located in rural Peck, Idaho. Subject is situated on a steep slope in a wooded area. Subject lacks improved road access and does not have access to public utilities such as sewer, water, and electricity.

Effective January 1, 2007, Respondent appraised the lot value at \$2,275, or \$0.46 per square foot.

Appellant provided the 2007 appraisal form, dated October 23, 2006, in which Respondent designated subject as "not buildable." Appellant presented a plat of Peck showing the immediate

area and identifying several platted, but undeveloped residential streets. The plat also showed a "Proposed Railroad Right of Way" running along subject's northeast property line. Appellant testified no residential development was occurring in the subject area.

Appellant provided an offer letter dated October 31, 2006 to establish subject's market value. The letter contained a signed written offer by David Lucas, President of Land Service, to purchase subject from Appellant for \$1,107, or \$0.22 per square foot. Appellant did not accept the Land Service offer.

The County Appraiser reported the assessed values of "all small town land" increased 30%" for the 2007 tax year. Subject's assessed value increased 30% for the 2007 tax year.

Respondent discussed subject's 2007 appraisal form. The appraisal included a photograph, taken from a considerable distance, showing subject's topography and flora. The appraisal described subject's topography as a "steep slope." The Appraiser testified of the lack of improved road access to subject and the impracticability of developing subject for residential use. The Appraiser stated the "not buildable" designation was based on the excessive cost to improve subject. Respondent rated subject as "poor," the lowest possible property rating in Nez Perce County.

The Appraiser provided data from seven "small town bare land sales" to support subject's assessed value. It was maintained these were the best sales available for comparison to subject. The sales transpired in 2003, 2005, and 2006. Only two sales occurred in 2006. Respondent did not time-adjust the dated 2003 and 2005 sales to account for 2006 market conditions. The two comparable sales from 2006 involved a 2,374 square foot lot and a 23,960 square foot lot. These properties respectively sold for \$2,250 (\$0.95 per square foot) and \$19,000 (\$0.79 per square foot). For comparison, subject was 5,000 square feet and had an

assessed value of \$2,275 (\$0.46 per square foot).

The Appraiser testified the comparable lots were located in “small town areas” in Nez Perce County. The record does not indicate each lot’s proximity to subject or whether any were located in or near Peck.

Respondent maintained only actual sales were used to value real property and appraisers could not rely on sale listings or purchase offers. It was asserted the Land Service offer was not an accurate measure of subject’s value because no transaction occurred and the sale was not open to competitive bids for a reasonable time. However, the Appraiser conceded the Land Service offer was a reasonable source for Appellant to consider in establishing subject’s value.

Appellant challenged Respondent’s blanket 30% increase of all small town land, asserting each lot’s unique characteristics must be considered. Appellant maintained the Land Service offer complied with Idaho’s definition of market value.

CONCLUSIONS OF LAW

This Board’s goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following:

At issue in this appeal, is the assessed value of an unimproved rural residential property designated as non-buildable. Appellant contended subject’s market value is \$1,107. Respondent valued subject at \$2,275. Respondent’s valuation represents a 30% increase from the prior tax year.

Idaho Code provides “All property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation.” I.C. § 63-203. Idaho

Code further directs that “rules promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes of all property.” I.C. § 63-208(1). For taxation purposes, Idaho requires property be valued at market value. I.C. § 63-201(10). The Idaho Administrative Code defines market value and accepted appraisal procedures:

01. Market Value Definition. Market value is the most probable amount of United States dollars or equivalent for which a property would exchange hands between a knowledgeable and willing seller, under no compulsion to sell, and an informed, capable buyer, under no compulsion to buy, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

03. Appraisal Procedures. Market value for assessment purposes shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission.

Respondent presented seven vacant land sales to support subject’s assessed value. However, only two sales transpired in 2006 and no time-adjustments were offered for the dated sales. Respondent’s comparable lots were unimproved residential lots under 24,000 square feet. All of the sales were located in small town areas throughout Nez Perce County. Unfortunately, the known similarities between subject and these comparable lots end here.

The County acknowledged the comparable lots were buildable and had improved access to streets and public utilities. It was also stated none of the comparable lots were situated on a “steep slope” or rated as “poor.” Also, the record did not indicate the location of these lots or their proximity to subject.

Respondent claimed the assessed value accurately reflects subject’s acknowledged deficiencies. However, the County did not demonstrate subject’s deficiencies were considered when the 30% increase was applied to subject. Respondent’s comparable data did not include

adjustments for subject's non-buildable status, steep topography, poor rating, and accessibility challenges. Nor did the comparable data include time-adjustments for the dated sales. The Board finds the County's "Small Town Bare Land Sales" were not indicative of subject's market value and did not substantiate a 30% increase to subject's assessed value.

Appellant asserted the signed purchase offer from Land Service satisfied Idaho's definition of market value, thereby establishing subject's market value at \$1,107.

The Land Service offer is relevant to an *overall* determination of subject's value, but does not fully satisfy Idaho's definition of a market value exchange. Appellant did not accept the Land Service offer, which expired on December 1, 2006. Although an exchange did not occur, the offer is evidence of a possible amount for which subject could exchange hands. However, as required by Idaho's definition of market value, the Land Service offer is not conclusive evidence of the "*most probable amount*" for which subject would exchange hands.

The County acknowledged the assessed values of "all small town land" increased 30%" for the 2007 tax year. The record showed the same increase was applied to subject without comparing the market value of similar lots (e.g., poor, non-buildable residential lots situated on steep slopes), or adjusting data from dissimilar lots to account for subject's known deficiencies.

The Board finds the facts do not support a 30% increase in subject's market value. The decision of the Nez Perce County Board of Equalization will be modified accordingly to reflect a \$525 decrease in subject's assessed value.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Nez Perce County Board of Equalization concerning the subject parcel be, and the same hereby is, modified reducing subject's assessed value to \$1,750.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED February 28, 2008